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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 JOSEPH GARCIA, et al.,

No. C 06-00255 CRB

12 Plaintiffs,

**ORDER**

13 v.

14 BAYSIDE FUNDING GROUP, et al.,

15 Defendants  
16 \_\_\_\_\_/

17 Now pending before the Court is the motion to dismiss of defendant Patric Cuspad,  
18 sued as Bayside Funding Group. After carefully considering the papers filed by the parties,  
19 the Court concludes that oral argument is unnecessary, see Local Rule 7-1(b), and rules as  
20 follows:

- 21 1. Defendant's motion to strike certain language of the complaint as impertinent is  
22 DENIED.
- 23 2. Plaintiffs' request to file an amended complaint is GRANTED. Plaintiffs have the  
24 right to file an amended complaint without leave of Court. See Crum v. Circus  
25 Enterprises, 213 F.3d 1129, 1130 n.3 (9th Cir. 2000). Plaintiffs seek leave to amend  
26 only because they seek to add a new party to the complaint, Fidelity Mortgage  
27 Company. Accordingly, the Court will not consider defendant Cuspad's substantive  
28 objections to the complaint and the motion to dismiss/strike is DISMISSED AS

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MOOT without prejudice to defendant filing a new motion in response to the amended complaint. For the parties' future reference, the Court notes that parties may cite to cases published in electronic databases, including Westlaw and Lexis. See Civil Local Rule 3-4(d).

3. Plaintiffs shall file their amended complaint within five days of the filing of this Order.

**IT IS SO ORDERED.**

Dated: May 12, 2006



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE